IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5709 OF 2005

1.Phulchand Pyarelal Kanojia
2.Smt.Usha Phulchand Kanojia ...Applicants
vs.
State of Maharashtra ...Respondent

Mr.A.P.Patil for the Applicants
Mr.A.S.Gadkari,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 6,2005

P.C.:

1. Heard Advocate for the Applicants and the learned A.P.P. for state. The Applicants are the in-laws of the deceased. The offence registered against the applicant and co-accused is under sections 498-A, 306 read with Section 34 of the Indian Penal Code.

2. I have heard the Advocates for the parties. Investigation is still in progress. I have perused the investigation papers. A statement of the deceased was recorded on 14th August 2005 and the dying declaration was recorded on 15th August 2005. In the statement and in the dying declaration there are no allegations made by the deceased against the Applicants. The statements of the other witnesses reveal that there are no specific allegation made by them against the Applicants herein.

3. If the deceased herself has not made any allegation against the Applicants, the case of the Applicants deserves to be considered even before filing of the charge sheet. Even in the F.I.R. filed by the father of the deceased, only general allegation is made against the Applicants regarding assault by hands.

4. As stated earlier, the deceased has not made any allegations against the Applicants in the dying declaration or in her first statement. Hence, the Applicants are entitled to be enlarged on bail subject to stringent conditions.

5. Hence I pass the following order :

i) The Applicants shall be enlarged on bail in connection with C.R.No.172/2005 registered with Agripada Police Station, Mumbai subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) each with one or two local sureties each in the like amount.

ii) Bail is granted subject to the condition that the Applicants will attend the concerned Police station as and when called upon to do by the Investigating Officer till the filing of the charge sheet and will co-operate for the purposes of investigation.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE